

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-02-SJ-050
)	
Radio X Broadcasting Corp.)	NAL/Acct. No. 200232680008
Licensee of Station WXLX, Lajas, Puerto Rico and)	
Owner of Antenna Structure #1043256 in Cabo)	FRN 0003762150
Rojo, Puerto Rico)	
Bayamon, Puerto Rico)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: September 5, 2002

By the Enforcement Bureau, San Juan Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find Radio X Broadcasting Corp., licensee of radio station WXLX, Lajas, Puerto Rico, and owner of antenna structure registration #1043256 near Cabo Rojo, Puerto Rico, apparently liable for a forfeiture in the amount of twenty thousand dollars (\$20,000) for willful violation of Section(s) 17.50 and 73.3526(b) of the Commission's Rules (“Rules”).¹ Specifically, we find Radio X Broadcasting Corp. apparently liable for failure to clean and repaint its antenna structure to maintain good visibility and for not maintaining the station's public inspection file at the main studio.

II. BACKGROUND

2. On August 21, 2002, agents of the Commission's San Juan Office inspected the antenna structure bearing FCC antenna structure registration (“ASR”) number 1043256 and located near the intersection of Routes 301 and 303, in Cabo Rojo, Puerto Rico. At the time of inspection, the structure's aviation orange and white paint was extremely faded and chipped reducing visibility of the structure. The Commission's ASR database showed this structure is owned and registered to Radio X Broadcasting Corp., and that this structure is required to be painted.

3. Still on August 21, 2002, during an inspection of WXLX's main studio co-located with its transmitter site, the public inspection file was not available for inspection. The operator on duty during the inspection stated that the public inspection file was kept at the station owner's office in Bayamon, Puerto Rico, over 100 miles from the city of license.

III. DISCUSSION

4. Radio X Broadcasting Corp.'s antenna structure registration #1043256 specifies lighting and

¹ 47 C.F.R. §§ 17.50 and 73.3526(b).

painting for this structure that includes requirements that the structure be painted with alternating aviation orange and white bands. Section 17.50 of the Rules requires antenna structure owners to clean or repaint the structure as necessary to maintain good visibility. On August 21, 2002, Radio X Broadcasting Corp.'s antenna structure #1043256 had extremely faded and chipped aviation orange and white paint.

5. Section 73.3526(b) of the Rules requires that the station's public inspection file be kept at the main studio location. On August 21, 2002, during an inspection of WXLX's main studio co-located with its transmitter site, the public inspection file was not available for inspection.

6. Based on the evidence before us, we find Radio X Broadcasting Corp. willfully² violated Section 17.50 and 73.3526(b) by failing to repaint its antenna structure in accordance with the painting specifications associated with its antenna structure registration #1043256 and failing to keep a public inspection file at its main studio location.

7. Pursuant to Section 1.80(b)(4) of the Rules,³ the base forfeiture amount for failure to repaint this structure is ten thousand dollars (\$10,000) and for failing to have a public inspection file at the station's main studio is ten thousand dollars (\$10,000). In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁴ Considering the entire record and applying the factors listed above, this case warrants a \$20,000 forfeiture.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁵ and Sections 0.111, 0.311 and 1.80 of the Rules,⁶ Radio X Broadcasting Corp. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of twenty thousand dollars (\$20,000) for willful violation of Sections 17.50 and 73.3526(b) of the Rules by failing to repaint its antenna structure in accordance with the painting specifications associated with its antenna structure #1043256 and failing to keep a public inspection file at its main studio location..

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, Radio X Broadcasting Corp. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

³ 47 C.F.R. § 1.80(b)(4).

⁴ 47 U.S.C. § 503(b)(2)(D).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁷

11. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Radio X Broadcasting Corp., HC 67 Box 15390, Bayamon, Puerto Rico 00956-9535.

FEDERAL COMMUNICATIONS COMMISSION

William Berry
San Juan Office, Enforcement Bureau

⁷ See 47 C.F.R. § 1.1914.